

Sixth Appellate District

San Jose, California

TUESDAY, OCTOBER 14, 2008

H032827 In re J. E.; DFCS v. D. R.

The order terminating parental rights is conditionally reversed, and the matter is remanded to the juvenile court with directions that the Department of Family and Children's Services provide proper notice to the previously noticed tribes and the Bureau of Indian Affairs. The Department is directed to file proof of receipt of such notice by the tribes and the Bureau of Indian Affairs, along with a copy of the notice and any responses. If, after receiving notice as required by the ICWA, no response indicates that J. is an Indian child, or the responses received indicate that she is not an Indian child within the meaning of the ICWA, the order terminating parental rights shall be immediately reinstated. If any tribe determines that J. is an Indian child within the meaning of the ICWA, the juvenile court shall conduct further proceedings applying the provisions of the ICWA, Welfare and Institutions Code section 224 et. seq., and rule 5.480 et seq. of the California Rules of Court. (not published)

(Elia, J.; We concur: Rushing, P.J., Premo, J.)

Filed October 14, 2008

H032887 PEOPLE v. CUELLAR

The abstract of judgment is ordered modified to state that the amount of the probation revocation restitution fine (§§ 1202.44) is \$200. As so modified, the judgment is affirmed. The clerk of the superior court is ordered to prepare an amended abstract of judgment and to forward it to the Department of Corrections and Rehabilitation. (not published)

(Bamattre-Manoukian, Acting P.J.; We concur: Mihara, J., McAdams, J.)

Filed October 14, 2008

H032382 In re F.S., et al.; D.F.C.S. v. A.S.

The order denying mother reunification services is affirmed. (not published)

(Rushing, P.J.; We concur: Premo, J., Bamattre-Manoukian, J.)

Filed October 14, 2008

H030958 SYTWU v. CITY OF SAN JOSE

The judgment is affirmed. (not published)

(Rushing, P.J.; We concur: Premo, J., Elia, J.)

Filed October 14, 2008

Sixth Appellate District

San Jose, California

Tuesday, October 14, 2008 (continued)

H030526 PEOPLE v. SHAISI

The conviction of acting as an accessory is reversed. In all other respects the judgment is affirmed. The trial court shall modify the abstract of judgment accordingly, and forward a copy thereof to the Department of Corrections and Rehabilitation. (not published)

(Rushing, P.J.; We concur: Premo, J., Elia, J.)

Filed October 14, 2008

WEDNESDAY, OCTOBER 15, 2008

H030557 RODRIGUEZ v. CITY OF SANTA CLARA CIVIL SERVICE
COMMISSION BOARD OF REVIEW, et al.

The judgment is affirmed. In affirming the remand order, we do not state any opinion with regard to the penalty to be imposed. (not published)

(McAdams, J.; We concur: Mihara, Acting P.J.,
Duffy, J.)

Filed October 15, 2008

H031106 PEOPLE v. ANDERSON

The judgment is affirmed. (not published)

(Duffy, J.; We concur: Mihara, Acting P.J., McAdams, J.)

Filed October 15, 2008

H031964 GAETA v. SILVA et al.

The order denying the special motion to strike the first cause of action of the complaint pursuant to the anti-SLAPP statute brought on behalf of appellants Brenda Silva, Yolanda Silva, and Jamie Silva is reversed. The matter is remanded to the trial court to enter an order granting the motion to strike the malicious prosecution cause of action of the complaint. (not published)

(Duffy, J.; We concur: Rushing, P.J., Premo, J.)

Filed October 15, 2008

H032595 IN RE CASSANDRA K., et al.

By the Court:

Upon the court's own motion, the submission order in the above entitled matter dated July 29, 2008, is hereby vacated. The matter is ordered placed on calendar for oral on Tuesday, November 18, 2008, at 9:30 a.m., in the Courtroom, at 333 West Santa Clara Street, Suite 1060, San Jose, California.

Dated: October 15, 2008 Mihara, Acting P.J.

Sixth Appellate District

San Jose, California

THURSDAY, OCTOBER 16, 2008

The following cases are submitted this date:

H032271 PEOPLE v. HEREDIA

H032607 PEOPLE v. TORRES

The Court met in its courtroom at 333 West Santa Clara Street, Suite 1060, San Jose, California. Present: Bamattre-Manoukian, Acting P.J.; McAdams, J.; Duffy, J.; and Jossie Michel, Deputy Clerk.

H031334 PEOPLE v. TABOR

Cause called and argued by Laoretta M. Oravitz-Komlos appearing for Appellant and by Deputy Attorney General Ronald E. Niver appearing for Respondent. Cause ordered submitted.

Bamatrre-Manoukian, Acting P.J. leaves the bench and Mihara, Acting P.J. takes the bench.

H031727 PEOPLE v. JACK

Cause called and argued by Lyn A. Woodward appearing for Appellant and by Deputy Attorney General Michael E. Banister appearing for Respondent. Cause ordered submitted.

H032298 PEOPLE v. KONG

Cause called and argued by Julia K. Freis appearing for Appellant and by Deputy Attorney General Sharon R. Wooden appearing for Respondent. Cause ordered submitted.

The court recesses until 1:30 p.m.

The Court reconvened at 1:30 p.m. in its courtroom at 333 West Santa Clara Street, Suite 1060, San Jose, California. Present: Bamattre-Manoukian, Acting P.J.; Mihara, J.; Duffy, J.; and Jane Valdez Flor, Deputy Clerk.

H031215 PEOPLE v. NGUYEN

Cause called and argued by Heather Mackay appearing for Appellant and by Eric D. Share, Deputy Attorney General, appearing for Respondent. Cause ordered submitted.

Bamattre-Manoukian, Acting P.J. leaves the bench and McAdams, J. takes the bench.

Sixth Appellate District

San Jose, California

Thursday, October 16, 2008 (continued)

H032732 AMAYA v. SUPERIOR COURT OF SANTA CLARA COUNTY; THE PEOPLE

Cause called and argued by Jeffrey Dunn, Deputy Public Defender, appearing for Petitioner and by Rene A. Chacon, Deputy Attorney General, appearing for Real Party in Interest. Cause ordered submitted.

H032366 NEWTON v. LEWIN-LAZZERI, et al.

Cause called and argued by Steven A. Ellenberg appearing for Appellant and by Jeffrey P. Widman appearing for Respondents. Cause ordered submitted. Court is adjourned.

H032271 PEOPLE v. HEREDIA

The appeal is dismissed. (not published)
(Bamattre-Manoukian, Acting P.J.; We concur: Mihara, J., Duffy, J.)

Filed October 16, 2008

H032782 PEOPLE v. LACERDA

The restitution orders are affirmed. (not published)
(Mihara, J.; We concur: Bamattre-Manoukian, Acting P.J., Duffy, J.)

Filed October 16, 2008

H032639 PEOPLE v. J.L.

The dispositional order is affirmed. (not published)
(Bamattre-Manoukian, Acting P.J.; We concur: McAdams, J., Duffy, J.)

Filed October 16, 2008

H032408 PEOPLE v. RANGEL

The judgment is affirmed. (not published)
(Bamattre-Manoukian, J.; We concur: Premo, Acting P.J., Elia, J.)

Filed October 16, 2008

H032924 PEOPLE v. HULTON

The judgment is affirmed. (not published)
(Mihara, J.; We concur: Bamattre-Manoukian, Acting P.J., Duffy, J.)

Filed October 16, 2008

Sixth Appellate District

San Jose, California

FRIDAY, OCTOBER 17, 2008

H030971 AMARILLAS et al. v. CAMPOLONG et al.

The orders granting respondents' special motions to strike complaint pursuant to the anti-SLAPP statute are affirmed. (not published)

(Duffy, J.; I concur: Bamattre-Manoukian, Acting P.J.; Dissenting opinion by McAdams, J.)

Filed October 17, 2008

H029616 PEOPLE v. EVANS

The judgment is affirmed. (not published)

(Premo, J.; We concur: Rushing, P.J., Elia, J.)

Filed October 17, 2008

H031366 PEOPLE v. AGUILERA

The judgment is affirmed. (not published)

(Premo, J.; I concur: Bamattre-Manoukian, J.; With dissenting by Rushing, P.J.)

Filed October 17, 2008

H031958 PEOPLE v. IBARRA

The request for publication of the opinion filed in the above entitled action by District Attorney Dolores A. Carr on October 10, 2008, is denied. The opinion does not establish a new rule of law, nor does it meet any of the criteria set forth in California Rules of Court, rule 8.1105(c). In compliance with California Rules of Court, rule 8.1120(b), the Clerk shall transmit the request for publication and a copy of this order to the Supreme Court.

(Elia, Acting P.J., We concur: Bamattre-Manoukian, J., Duffy, J.)

H030848 TRIVERS v. QUIRK

The October 2006 order is reversed and the cause is remanded to the trial court with directions (1) to reconsider its award of child support and (2) to reconsider its 2004 and 2006 attorney fee awards. The parties shall bear their own costs on appeal.

(not published)

(McAdams, J.; We concur: Bamattre-Manoukian, Acting P.J., Duffy, J.)

Filed October 17, 2008

H032521 PEOPLE v. ACEVES

The judgment is affirmed. (not published)

(McAdams, J.; We concur: Mihara, Acting P.J., Duffy, J.)

Filed October 17, 2008